

§ 201.25 Charges to borrower to obtain loan.

(a) *Fees and charges that may be financed in a property improvement loan.* The Secretary will establish a list of fees and charges that may be included in a property improvement loan. Such fees and charges shall have been incurred in connection with the origination of the loan, and their inclusion shall not increase the total principal obligation beyond the maximum loan amounts in § 201.10.

(b) *Fees and charges that may be financed in a manufactured home loan.* The Secretary will establish a list of fees and charges that may be included in a manufactured home loan. Such fees and charges shall have been incurred in connection with the origination of the loan, and their inclusion shall not increase the total principal obligation beyond the maximum loan amounts in § 201.10.

(c) *Fees and charges that may not be financed.* The Secretary will establish a list of fees and charges incurred by the lender that may be collected from the borrower in the initial payment, but may not be included in the loan amount or otherwise financed or advanced by the dealer, the manufacturer, or any other party to the loan transaction.

(d) *Fees and charges that may not be paid.* Neither the lender nor the borrower may pay a referral fee to any dealer, home manufacturer, contractor, supplier, real estate broker, loan broker, or any other party in connection with the origination of a loan insured under this part.

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§ 201.26 Conditions for loan disbursement.

(a) *Property improvement loans.* The lender shall comply with the following applicable requirements before disbursing the proceeds of a property improvement loan.

(1) The lender shall ensure that the following conditions are met:

(i) The borrower is eligible for a property improvement loan in accordance with § 201.20(a) (1) or (2); and

(ii) The interest of the borrower in the property is valid, through such

title or other evidence as are generally acceptable to prudent lending institutions and leading attorneys in the community in which the property is situated.

(2) The proposed use of the loan proceeds shall be documented in accordance with the requirements of § 201.20(b)(1).

(3) Where the proceeds are to be used for an historic preservation loan, the lender shall ensure that the proposed improvements have been approved by the State Historic Preservation Officer in accordance with § 201.20(c).

(4) Where the proceeds are to be used for a fire safety equipment loan, the lender shall ensure that the proposed improvements have been approved by the State or local agency having jurisdiction over the fire safety requirements of health care facilities in accordance with § 201.20(c).

(5) In the case of a dealer loan, the lender shall obtain a completion certificate, on a HUD-approved form and signed by the borrower and the dealer under applicable criminal and civil penalties for fraud and misrepresentation, certifying that

(i) the improvements are eligible and have been completed in general accordance with the contract or cost estimate furnished to the lender, and

(ii) The borrower has not obtained the benefit of and will not receive any cash payment, rebate, cash bonus, sales commission, or anything of more than nominal value from the dealer as an inducement for the consummation of the transaction.

(6) In the case of a dealer loan made on or after December 7, 2001, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

(7) In the case of a dealer loan, the lender must conduct a telephone interview with the borrower before the disbursement of the loan proceeds. The lender, at minimum, must obtain an oral affirmation from the borrower to release funds to the dealer. The lender shall document the borrower's oral affirmation.

(8) For any property improvement loan, the lender shall provide the borrower with a written notice, to be